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Statutory guidance

Early years foundation stage: coronavirus disapplications

Updated 24 April 2020

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1. Introduction

The Early Years Foundation Stage (EYFS) statutory framework

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/596629/EYFS_STATUTORY_FRAMEWORK_2017.pdf) sets the standards that all early years providers must meet to ensure that children aged 0 to 5 learn and develop well and are kept healthy and safe.

To support early years providers who remain open to vulnerable children and children of critical workers during the coronavirus (COVID-19) outbreak, the Government has temporarily disapplied and modified certain elements of the EYFS statutory framework.

This will allow providers greater flexibility to respond to changes in workforce availability and potential fluctuations in demand, while still providing care that is high quality and safe.

- The list of critical workers is available in the Guidance for schools, childcare providers, colleges and local authorities in England on maintaining educational provision (<https://www.gov.uk/government/publications/coronavirus-covid-19-maintaining-educational-provision/guidance-for-schools-colleges-and-local-authorities-on-maintaining-educational-provision>)
- The definitions of vulnerable children are available in the Supporting vulnerable children and young people during the coronavirus (COVID-19) outbreak (<https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-on-vulnerable-children-and-young-people/coronavirus-covid-19-guidance-on-vulnerable-children-and-young-people>) guidance
- This guidance note is issued as the new legislation comes into force and should be read alongside the Early Years and Childcare Covid-19 guidance (<https://www.gov.uk/government/publications/coronavirus-covid-19-early-years-and-childcare-closures>)

The term 'reasonable endeavours' has been used for the learning and development requirements and welfare requirements relating to staff qualification levels. For the Paediatric First Aid requirement, 'best endeavours' has been used. 'Best endeavours' is a higher level requirement than 'reasonable endeavours' and is used here to ensure meeting the Paediatric First Aid requirements takes priority over the other areas of the EYFS framework that have been changed.

2. Who is this for?

The disapplications and modifications to the EYFS are for all early years providers in England that are opening for vulnerable children and the children of key workers during the COVID-19 period: maintained schools; non-maintained schools; independent schools (including free schools and academies); all providers on Ofsted's Early Years Register; and all providers registered with an early years childminder agency (CMA).

3. When do these changes apply?

This guidance outlines the temporary changes that came into force on 24 April 2020 and will last throughout the COVID-19 outbreak or until government stipulates otherwise. The long end date of the legislative changes is shown in regulations as 25 September 2020, but these will be reviewed on a

monthly basis and disapplications and modifications may be lifted earlier, for instance if government advice on self-isolation and social distancing is amended.

Once the temporary changes are lifted, we realise some providers that remained open during the COVID-19 outbreak may need time to get back to full staffing levels and therefore we have allowed for a transitional period of up to 2 months, following the COVID-19 outbreak, where the disapplications around staffing qualifications in ratios will still continue.

All other disapplications and modifications will cease once the temporary changes are no longer in force, at the end of the COVID-19 outbreak. At that point providers should again follow existing EYFS statutory guidance. Providers will be notified when the period ends via official government channels.

4. EYFS section 1

4.1 Learning and development requirements

The change: During the COVID-19 outbreak early years providers should use reasonable endeavours to meet the existing learning and development requirements, instead of this being something they 'must do'.

What this means in practice: The most important thing is that children of critical workers and vulnerable children are cared for within settings. As far as possible, children should also benefit from a broad range of educational opportunities.

The EYFS learning and development requirements comprise seven high level areas of learning that ordinarily must shape education programmes in settings, and seventeen Early Learning Goals (ELGs) which summarise the knowledge, skills and understanding that all young children should have gained by the end of the reception year.

Whilst providers should try and meet existing requirements as far as is possible during the COVID-19 outbreak, we recognise that these are extraordinary times and there may be occasions where it will not be possible to provide activities and experience across all seven areas of learning for all children all of the time.

5. EYFS section 2

5.1 Assessment - progress check at age 2

The change: The progress check at age 2 will not need to be undertaken during the COVID-19 outbreak.

What this means in practice: Providers would normally need to undertake a progress check when a child is aged between two and three; this provides parents/carers with a short, written summary of their child's development in the prime areas.

During the COVID-19 outbreak we do not expect providers to undertake this check, but providers should still remain alert to any emerging concerns about any child in their care and endeavour to provide or seek additional support if needed. It is expected that the checks will take place once the COVID-19 outbreak ends, so if a child is still between the age of 2 and 3 once the temporary measures are lifted then the progress check should still be completed before the child turns 3.

5.2 Assessment – EYFSP

The change: The Early Years Assessment Stage Profile (EYSFP) will not need to be undertaken in the academic year 2019/20.

What this means in practice: The EYFSP is usually undertaken in the final term of the year in which a child turns 5 and involves teachers assessing each child's level of development against each of the seventeen ELGs. The results are usually shared with parent/carers, Year 1 teachers and the Local Authority and form national statistics. There will be no statutory requirement for schools to undertake the EYFSP in 2019/20.

Schools are still free to complete EYFSP assessments for children if they are able to, and to share with parents and carers and Year 1 teachers at an appropriate time, but they are not required to. If they do choose to assess children, they do not need to share data with their Local Authority and Local Authorities will not be required to moderate any assessments that are carried out in 2019/20.

6. EYFS Section 3:

6.1 Staff qualification and ratios

The change: Ratio requirements stay the same in the majority of cases (see Maintained Nursery Schools for the only exception) but, during the COVID-19 outbreak, exceptions can be made to the qualifications that staff hold in order to be counted in the ratio requirements. Providers should use reasonable endeavours to ensure that at least half of staff (excluding the manager) hold at least a full and relevant Level 2 qualification to meet staff: child ratio requirements, but this will not be a legal requirement.

What this means in practice: Ratio requirements remain the same, except for maintained school nursery classes with no school teacher, with the existing flexibility set out at Paragraph 3.30 of the EYFS: "Exceptionally, and where the quality of care and safety and security of children is maintained, changes to the ratios may be made."

Providers still need to ensure that there is always a member of staff in a setting which is open and providing care, who holds at least a full and relevant Level 3 qualification.

We expect providers to try and meet existing requirements for staff at level 2 as far as is possible. For example, if staff with level 2 qualifications are available, they should work with the children. However, we recognise that there may be occasions where staff absence due to the impacts of COVID-19 means this is not possible.

The qualifications of staff depend on the type of setting and the numbers of staff: child ratios in the EYFS. These are set out below.

6.2 Paediatric First Aid

The changes: The requirement for at least one person who has a full paediatric first aid (PFA) certificate to be on the premises at all times when children are present remains in place where there are children below the age of 24 months. Paragraph 3.25 and Annex A of the EYFS set out more detail. However, if children are aged 2-5 within a setting, providers must use their 'best endeavours' to ensure one person with a full PFA certificate is on-site when children are present. If after using best endeavours they are still

unable to secure a member of staff with full PFA to be on site then they must carry out a written risk assessment and ensure that someone with a current First Aid at Work or emergency PFA certification is on site at all times children are on premises.

'Best endeavours' means to identify and take all the steps possible within your power, which could, if successful, ensure there is a paediatric first aider on site when a setting is open, as per the usual EYFS requirement on PFA.

Please note this does not apply for childminders as they must already have a full PFA certificate.

New entrants (levels 2 and 3) will not need to hold a Paediatric First Aid (PFA) certificate within their first 3 months in order to be counted in staff: child ratios, during the COVID-19 outbreak.

Additionally, if PFA certificate requalification training is prevented for reasons associated directly with COVID-19, or by complying with related government advice, the validity of current certificates can be extended by up to 3 months. This applies to certificates expiring on or after 16 March 2020.

Providers remain responsible for ensuring all children in their care are kept safe at all times.

What this means in practice:

For providers with children below the age of 24 months in their care, the requirements around PFA remain the same as in the current EYFS framework, with the exception that during the COVID-19 outbreak new entrants do not need to have a PFA certificate to be counted in ratios. This is in recognition of the greater risk factors for babies and young children in this age bracket, including choking risks and different cardiopulmonary resuscitation (CPR) procedures for those aged 0-1 as set out by the NHS.

For providers who have children aged 2-5 in their care they must use 'best endeavours' to have one person with full PFA, as set out in the EYFS, onsite. By best endeavours we mean providers must be able to demonstrate they have identified and taken all the steps possible to appoint a suitable person. This should include liaising with their local authority to find a suitable person, this could include identifying and looking to appoint:

- a person with a PFA certificate and Disclosure and Barring Service (DBS) check from a local provider who has closed; or
- a registered local childminder with a PFA certificate and DBS check who is approved to work on non-domestic premises

Looking to secure full PFA training for staff that includes the specific risk factors and techniques required for the care of young children including but not limited to choking, seizures, and issues related to sleeping. Annex A of the EYFS statutory framework sets out the criteria for effective PFA training.

After these actions have been carried out and if it is still not possible for someone with a full PFA certificate to be on site at all times children are present, providers **must** undertake the following actions in order to remain open:

- Carry out a written risk assessment to consider and mitigate the likely occurrence of a serious incident.

- Ensure at least one person with a current First Aid at Work or emergency PFA certification is on site at all times children are on premises and must accompany children on outings. Paragraph 3.65 in the EYFS continues to apply and outings should only be undertaken if it is safe to do so. Providers must take account of any Govt advice in relation to the COVID-19 outbreak.

The written risk assessment should take into account all relevant factors with the aim of enabling the setting to ensure they can provide the safe care needed by children of critical workers and vulnerable children during COVID-19 outbreak, including:

- The number of children on the premises
- The staff to child ratios
- The types of activities undertaken with the children on the premises
- The likely need for first aid based on the needs of the children attending the premises
- First aider knowledge among staff on the premises: and
- The mitigations available to reduce the risk of such an incident

Providers will need to keep the written risk assessment available in the setting throughout the COVID-19 breakout. This does not need to be sent anywhere but must be available on request.

Providers could help members of staff who have a First Aid at Work or emergency PFA certificate to help bridge the gap between their current qualification and full PFA by looking to secure online training to cover elements required for the care of young children.

HSE provides guidance on choosing a first aid training provider (<https://www.hse.gov.uk/pubns/geis3.pdf>).

As set out in HSE guidance, any training in relation to paediatric CPR and choking should be in line with the Resuscitation Council's guidance (<https://www.resus.org.uk/resuscitation-guidelines/paediatric-basic-life-support>) and NHS England guidance (<https://www.nhs.uk/conditions/pregnancy-and-baby/resuscitating-a-baby>).

6.3 Safeguarding and welfare

All other aspects of the safeguarding and welfare section of the EYFS framework still apply, including requirements relating to child protection arrangements. Providers will want to consider whether any refresh or review is needed of their child protection arrangements, policy and procedures, in light of the COVID-19 outbreak.

Settings must continue to have a practitioner designated to take lead responsibility for safeguarding. It is acceptable for the safeguarding lead to not be based on-site if this is not practical, for example they may be working from home, or be based at another setting, as long as they are still available to provide support, advice and guidance to staff.

See the statutory guidance on keeping children safe in education

(<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>) for more information.

7. Staff qualifications and ratios during COVID-19

7.1 All group settings

(See EYFS para 3.23)

Current requirement:

- The manager must hold at least a full and relevant level 3 qualification and at least half of all other staff must hold at least a full and relevant level 2 qualification
- The manager should have at least two years' experience of working in an early years setting, or have at least two years' other suitable experience
- The provider must ensure there is a named deputy who, in their judgement, is capable and qualified to take charge in the manager's absence

Change for COVID-19: Providers should use their "reasonable endeavours" to ensure that at least half of all other staff (excluding the manager) hold at least a full and relevant level 2 qualification. However, meeting this will not be a legal requirement.

All other requirements remain.

7.2 All settings

(See EYFS para 3.25)

Current requirement:

At least one person who has a current paediatric first aid (PFA) certificate must be on the premises and available at all times when children are present and must accompany children on outings.

All newly qualified entrants to the early years workforce who have completed a level 2 and/or level 3 qualification must also have either a full PFA or an emergency PFA certificate within three months of starting work in order to be included in the required staff: child ratios at level 2 or level 3 in an early years setting.

Change for COVID-19: The requirement for all newly qualified entrants to the early years workforce to have a full PFA or emergency PFA certificate within three months of starting work in order to be included in the required staff: child ratios at level 2 or level 3 will be disapplied.

There will remain a requirement for at least one person who has a current PFA certificate to be on the premises and available at all times when children aged below 24 months are present.

Where a provider has only children aged 2-5 in their care they must use 'best endeavours' to have one person with PFA onsite.

All other requirements remain.

7.3 All providers (other than childminders) caring for children under two

(See EYFS para 3.31)

Current requirement:

- There must be at least one member of staff for every three children
- At least one member of staff must hold a full and relevant level 3 qualification and must be suitably experienced in working with children under two

- At least half of all other staff must hold a full and relevant level 2 qualification
- At least half of all staff must have received training that specifically addresses the care of babies
- Where there is an under two-year-olds' room, the member of staff in charge of that room must, in the judgement of the provider, have suitable experience of working with under twos

Change for COVID-19: Providers should use their “reasonable endeavours” to ensure that at least half of other staff, excluding the member of staff who holds a level 3 qualification, hold at least a full and relevant level 2 qualification, but meeting this will not be a legal requirement.

All other requirements continue to apply.

7.4 All providers (other than childminders) caring for children aged two

(See EYFS para 3.32)

Current requirement:

- There must be at least one member of staff for every four children
- At least one member of staff must hold a full and relevant level 3 qualification
- At least half of all other staff must hold a full and relevant level 2 qualification

Change for COVID-19: Providers should use their “reasonable endeavours” to ensure that at least half of other staff, excluding the member of staff who holds a level 3 qualification, hold at least a full and relevant level 2 qualification, but meeting this will not be a legal requirement.

All other requirements remain.

7.5 Providers caring for children aged three and over where a person with Qualified Teacher Status, Early Years Professional Status, Early Years Teacher Status or another suitable level 6 qualification is working directly with the children.

(See EYFS para 3.33)

Current requirement:

- There must be at least one member of staff for every 13 children.
- At least one other member of staff must hold a full and relevant level 3 qualification.

Change for COVID-19: Providers should use their “reasonable endeavours” to ensure that at least one other member of staff, excluding the member of staff who holds a suitable level 6 qualification, holds a full and relevant level 3 qualification, but meeting this will not be a legal requirement.

All other requirements remain

7.6 Providers caring for children aged three and over when a person with Qualified Teacher Status, Early Years Professional Status, Early Years Teacher Status or another suitable level 6 qualification is not working directly with the children.

(See EYFS para 3.34)

Current requirement:

- There must be at least one member of staff for every eight children
- At least one member of staff must hold a full and relevant level 3 qualification
- At least half of all other staff must hold a full and relevant level 2 qualification

Change for COVID-19: Providers should use their “reasonable endeavours” to ensure that at least half of other staff, excluding the member of staff who holds a level 3 qualification, hold at least a full and relevant level 2 qualification but meeting this will not be a legal requirement.

All other requirements remain.

7.7 Independent schools (including in nursery classes in free schools and academies) caring for children aged three and over where a person with Qualified Teacher Status, Early Years Professional Status, Early Years Teacher Status or another suitable level 6 qualification, an instructor, or another suitably qualified overseas trained teacher, is working directly with the children.

(See EYFS para 3.35)

Current requirement:

- For classes where the majority of children will reach the age of five or older within the school year, there must be at least one member of staff for every 30 children
- For all other classes there must be at least one member of staff for every 13 children
- At least one other member of staff must hold a full and relevant level 3 qualification

Change for COVID-19: Providers should use their “reasonable endeavours” to ensure that at least one other member of staff, excluding the member of staff who holds a suitable level 6 qualification, an instructor, or another suitably qualified overseas trained teacher, holds at least a full and relevant level 3 qualification but meeting this will not be a legal requirement. Requirements placed on these providers remain subject to any permitted exceptions under The Schools Admissions (Infant Class Sizes) Regulations 2012 S.I. 2012/10.

All other requirements remain.

7.8 Independent schools (including in nursery classes in academies) caring for children aged three and over where there is no person with Qualified Teacher Status, Early Years Professional Status, Early Years Teacher Status or another suitable level 6 qualification, no instructor, and no suitably qualified overseas trained teacher, working directly with the children.

(See EYFS para 3.36)

Current requirement:

- There must be at least one member of staff for every eight children
- At least one member of staff must hold a full and relevant level 3 qualification
- At least half of all other staff must hold a full and relevant level 2 qualification

Change for COVID-19: Providers should use their “reasonable endeavours” to ensure that at least half of other staff, excluding the member of staff who holds a level 3 qualification, hold at least a full and relevant level 2 qualification but meeting this will not be a legal requirement.

All other requirements remain.

7.9 Maintained Nursery Schools and nursery classes in maintained schools caring for children aged three and over

(See EYFS para 3.37)

Current requirement:

- There must be at least one member of staff for every 13 children
- At least one member of staff must be a school teacher as defined by section 122 of the Education Act 2002
- At least one other member of staff must hold a full and relevant level 3 qualification

Change for COVID-19: Providers should use their “reasonable endeavours” to ensure that at least one member of staff is a school teacher as defined by section 122 of the Education Act 2002.

In instances where this is not possible, providers should follow the requirements for providers where there is not someone with a suitable level 6 qualification working directly with the children (i.e. there must be at least one member of staff for every eight children, at least one member of staff who holds at least a full and relevant level 3 qualification and providers should use their “reasonable endeavours” to ensure that at least half of other staff hold at least a full and relevant level 2 qualification).

Where at least one member of staff is a school teacher, providers should use their “reasonable endeavours” to ensure that at least one other member of staff holds at least a full and relevant level 3 qualification but meeting this will not be a legal requirement.

All other requirements remain.